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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,854	03/30/2001	Tatsuro Kawamura	43888-100	7033
7590 10/11/2006 McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER GORDON, BRIAN R	
			ART UNIT	PAPER NUMBER

1743

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/820,854

Applicant(s)

KAWAMURA, TATSUROU

Examiner

Brian R. Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12-13-05.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-9 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-4, 7-9, 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 7, 2006 has been entered.

Response to Arguments

2. Applicant's arguments filed August 7, 2006 have been fully considered but they are not persuasive.

Applicant continues to assert the references do not disclose verifying a change in an output signal based on a change over time in the output signal.

Applicant asserts Sekiyama is directed to taking multiple discrete measurements over time and such measurements would be independent from one another. Applicant further asserts multiple discrete measurements does not necessitate that the change over time itself would be used for verification and rather that each time the liquid level is "monitored and maintained" in Sekiyama would be based on a discrete measurements taken at the respective time.

The above argument is not commensurate in scope with that of the claims. While the examiner does not agree that Seykiyama discloses discrete measurements

as asserted, it is unclear what applicant is attempting to compare the discrete measurements to in the claim. Applicant's claim 1 does not require discrete measurements or any other types of measurements to be taken in any of the steps of the claim. It is only required that some type of indication be given if and when a change occurs in an output signal over a time period. As drafted the claim requires one to detect or observe any type of change in an output signal over a time period. Even if the references did teach multiple discrete measurements, the examiner asserts this would meet the limitations of the claim. For example if one were required to maintain or ensure a particular amount of material remains in container for a period of a number of second, minutes, hours, or days (any time period one chooses) and discrete measurements (as implied by applicant) were taken at the beginning of the period and there throughout at any respective intervals, one could determine, observe, or verify if the amount at one point of measurement has changed over time based on the respective measurements (output signal obtained from means employed for the measurements) taken at different times in the specified time period.

Coville discloses ensuring a reservoir is filled throughout a time period of use of the device. This is done by employing a light detector. When filled the light path is blocked (no signal is received). When the level drops below a fill level the light is detected (change in signal) to indicate or verify a change in the amount of liquid has occurred.

Sekiyama et al. operates in a similar manner in which different levels of liquid are determined based on a laser voltage output signal. A change in such voltage output signal allows one to verify if a change in the amount of fluid has changed or not.

Applicant continues to assert that the term over time is associated with a particular equation of calculation or variable employed therein. The claim does not contain nor require measurements be taken and calculations derived base on a specific equation.

For reasons given herein, the rejections as based upon Coville and Sekiyama et al. are hereby maintained.

In view of the submission of the English translation the rejections as based on Elrod are hereby withdrawn.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Coville et al., US 6,398,956.

Coville discloses a method of detecting the liquid level of a sample being supplied to reservoir 12. The device includes two optical paths. The purpose of light conducting paths 30 and 32 is to permit detection of the level of fluid in reservoir 12 and/or reservoirs 12a, 12b. When light path 30 is blocked, a sense signal indicates that the reservoir is filled to its desired level. When light path 32 is unblocked, a sense signal indicates a low level of fluid in reservoir 32 (column 12, lines 11-35).

3. Claims 1, 7, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekiyama et al. US 5,965, 447.

Sekiyama et al. discloses a method of filling a container. The liquid level is monitored and sense as liquid is poured in the container (see column 9, lines 13-20; column 12, lines 18-15).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 3-4, 7-9 and 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. US 4,943,416 further in view of Seyiyama et al. as applied above.

Kikuchi discloses an automatic urinalysis system which can be readily installed at an excretion site such as a toilet and by which means a subject itself can test its urine easily at any time and can obtain results of such test. The system comprises a sample collecting means for collecting a sample of urine within a stool or the like at an excretion site, a guiding means for introducing the collected urine sample into a testing area

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within a body of the system, a urine testing element located within the system body, a contacting means for automatically contacting the urine testing element with the urine sample in the testing area, a urine testing means for automatically testing the urine testing element contacted with the urine sample by the contacting means, a display means for displaying test data from the urine testing means, and a discharging means for discharging the urine sample into the stool after the urine sample has been contacted by the urine testing element (abstract).

After testing, the storage chamber and some other components of the automatic urinalysis system 1 which have contacted with the urine are washed and/or sterilized by a washing and/or sterilizing means 11 (claims 14-15).

While Kikuchi et al. disclose a urine level sensor, Kikuchi does not disclose measuring or verifying an amount over time.

Sekiyama et al. disclose methods in which a fluid level is measured over a time period.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system and method of Kikuchi et al. by incorporating level sensing devices as taught by Sekiyama et al. in order to provide an automatic urinalysis system which can easily and frequently test and analyze urine and can provide information of results of such analysis to a subject at an excretion site such as a toilet of a hotel, a department store, a firm or a house of the subject itself at which the automatic urinalysis system is installed without the necessity for the subject to take the trouble to

go to a hospital or a medical testing center in order to undergo a medical testing of urine performed thereat by a doctor and/or a nurse (Kikuchi et al. column 2, line 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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